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Attorneys for Plaintiff Impinj, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IMPINJ, INC.,

Plaintiff,

v.

NXP USA, INC.,

Defendant.

Case No. 4:19-cv-03161-YGR-VKD

**IMPINJ STATEMENT OF ELEMENTS OF
PROOF FOR RETRIAL**

1 Pursuant to Section 2(a)(i) of the Court's Standing Order re: Pretrial Instructions in Civil
2 Cases (updated on December 21, 2023), Plaintiff Impinj, Inc. ("Impinj") hereby submits this
3 statement of elements of proof for its asserted claims and defenses, including a summary of the
4 evidence anticipated to prove the same.

5
6 1. Validity of the '302 patent

7 a. NXP bears the burden of proof to establish invalidity for its defense(s) and
8 counterclaim(s). Impinj asserts that NXP cannot establish that the '302
9 patent is invalid asobvious in light of the prior art, including over the
10 combination of by clear and convincing evidence. In particular with respect
11 to the combination of Eberhardt and Ching-San the prior art does not teach
12 or render obvious all elements of asserted claims 1, 3, 4, and 7, and a
13 POSITA would not be motivated to combine Eberhardt and Ching-San.

14 b. To rebut the claim of invalidity, Impinj will rely on the testimony of Dr.
15 Scott Thompson concerning the teachings of the prior art, lack of motivation
16 to combine, and secondary considerations (including commercial success,
17 copying, and praise for the invention), the testimony of the inventor of the
18 '302 patent, the testimony of Impinj witnesses Dr. Chris Diorio and Ron
19 Oliver, cross-examination of NXP witness, including Dr. Subramanian, and
20 documentary evidence including the prior art identified by NXP for the '302
21 patent.

1 DATED: January 26, 2024

By: /s/ Ramsey M. Al-Salam

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